GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR- Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham, Sri Badireddy Bulithammannadora, S/o. Late Kasi Viswanatham & Sri Badireddy Paparao, S/o.Late Kasi Viswanatham all are R/o. Gokavaram (V&M), East Godavari District (legal heir and son of deceased petitioner Badireddy Kasi Viswanadham) against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District in C.M.A.No.38/2014, dated. 10.03.2018 for the land measuring Ac.2.32 cts in Sy.No.22/1 of Pedabhimpalli village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District - Dismissed-Orders - Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.60 Dated:17.10.2023.
Read the following:

1. Revision Petition filed by Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham and (3) others, R/o. Gokavaram (V&M), Alluri Sitharamaraju District before the Hon'ble Dy.CM(TW), dt.10.08.2018 together with its enclosures.
2. Hon'ble High Court order in W.P.No. 33002 of 2018, dated.17.09.2018 filed (3) by Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham and others, R/o. Gokavaram (V&M), Alluri Sitharamarajuz District.
3. From the Project Officer, ITDA, Rampachodavaram Alluri Sitharamaraju District, C.M.A.No.38/2014, Dated: 10.03.2018.

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ORDER:

In the reference 1st read above, Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham and (3) others, R/o. Gokavaram (V&M), Alluri Sitharamaraju District erstwhile East Godavari District have filed a Revision petition before the Government of A.P., against the orders of Additional Agent to Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District in CMA No38/2014, dated.10.03.2018 in respect of land measuring Acs.2.32 cts in Sy.No.22/1 of Pedabhimpalli Village, Devipatnam Mandal, Alluri Sitharamaraju District.

2. Brief history of the subject case:

a. The Special Deputy Tahasildar (TW), Devipatnam(M), Alluri Sitharamaraju District has filed a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondent.

b. The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry on the Petition Scheduled Land in Sy.No. 22/1 admeasuring Ac 2.32 cts which originally belongs to Geddam Ramulu and later it was transferred to the Badireddy Kasi Viswanadham, S/o. Reddamma and the Respondent (Badireddy Kasi Viswanadham) as his counsel failed to establish the possession and enjoyment of the Badireddy Kasi Viswanadham is in consistent with the amended regulation 1 of 1970 and beyond any doubt the possession is in violative of Section 3 of the regulation on par with legal presumption of the section 3(1)(b) of the regulation.

c. Hence, The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3 of APSALTR 1/59 as amended by 1/70 has ordered for restoration of petition scheduled land measuring Ac.2.32 cts in Sy.No.22/1 of Pedabhimpalli village of Devipatnam Mandal, Alluri Sitharamaraju District to Government for evicting the respondents therein for onward assignment to landless poor Tribals vide ADO LTRP No.71/2008, dt.28.10.2013.

d. Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham and (3) others, R/o. Gokavaram (V&M), Alluri Sitharamaraju District have filed an appeal against the orders ADO LTRP No.71/2008, dt.28.10.2013 before the Addl. Agent to Govt. cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e. After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has dismissed the appeal filed by the Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham and (3) others, R/o. Gokavaram (V&M), Alluri Sitharamaraju District with regard to the scheduled property covered by measuring Ac.2.32 cts in Sy.No.22/1 of Pedabhimpalli village of Devipatnam Mandal, Alluri Sitharamaraju District and in CMA No.38/2014, dated.10.03.2018, upheld the orders passed by the Special (TW), Rampachodavaram, Alluri Sitharamaraju District in ADO LTRP No.71/2008, dt.28.10.2013.

3. Aggrieved by the above orders, Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham and (3) others, R/o. Gokavaram (V&M), Alluri Sitharamaraju District have filed a Revision petition dated.10.08.2018 before the Government of A.P., against the orders of the Addl. Agent to

the Govt. cum Project Officer, ITDA, Rampachodavaram in C.M.A. No.38/2014, dated. 10.03.2018 with a request to grant interim order and suspend the order passed by the Addl. Agent to Govt. cum Project Officer, ITDA, Rampachodavaram in the interest of justice.

4. Meanwhile, the petitioner Sri.Badireddy Venkatareddy, S/o. Late Kasi Viswanatham, Sri Badireddy Bulithammannadora, S/o. Late Kasi Viswanatham & Sri Badireddy Paparao, S/o.Late Kasi Viswanatham all are R/o. Gokavaram (V&M), East Godavari District (legal heir and son of deceased petitioner Badireddi Kasi Viswanadham) have filed W.P.No.33002 of 2018, dated. 17.09.2018 before the Hon'ble High Court and APHC issued orders that the 1st respondent(herein Govt.) to consider the revision and /or the application for stay filed by the petitioners on 18.08.2018 against the order of the Additional Agent to the Government, dated 10.03.2018 in CMA No.38 of 2014 and pass appropriate orders therein expeditiously within four weeks from today. Till the 1st respondent (Government) passes appropriate order as directed above, there shall be stay of eviction of the petitioners.

5. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram has enclosed the copy of order issued by the Additional Agent to Government, Alluri Sitharamaraju District passed in C.M.A.No.38/2014, dated. 10.03.2018 and the remarks on the affidavit filed by the Petitioner.

6. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally came up for hearing on 07.03.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Revision Petition is filed originally by Sri Badireddy Kasi Viswanatham challenging the order passed by the Addl.Agent to Government, erstwhile East Godavari District, in CMA No.38/2014, dated. 10.03.2018, upholding the order passed by the Agency Divisional Officer, Rampachodavaram, Alluri Sitharamaraju District in ADO LTRP No.71/2008, dated. 28.10.2013 for restoration of the scheduled land measuring an extent of Ac.2.32 cts in Sy.No.22/1 of Pedabhimpalli village of Devipatnam Mandal, the earstwhile East Godavari District to the Government by evicting the respondents therein and for onward assignment to landless poor tribals.

(II) The Revision Petitioner requested to set aside the impugned orders and direct the authorities to drop all further proceedings initiated against the petitioners. The Revision Petitioner died during pendency of the Revision Petition. Therefore his sons and wife were brought on the record as legal representatives to the deceased Kasi Viswnatham to pursue their case.

(III) Heard both sides. The following order is made after perusal of the material documents available on the file.

(IV) The contention of the Revision Petitioners is that the Additional Agent to Government gravely erred in confirming the order in restoring the schedule land to the Government from the possession and occupation of them is not valid under the law.

(V) The further contention of the Revision Petitioners is that the Pedabhimpalli Village of Devipatnam Mandal is recognised as government village in the fasli 1341 Re-settlement which was held by the then government and one Geddam Ramudu a non tribal name was shown in the register as the Pattadar. The said Geddam Ramudu sold away the said land to the great grandfather of the original Revision Petitioner and there is no involvement of the tribe at any time from the commencement of the Act 1/1917 to till the commencement of Land Transfer Regulation 1 of 70 as such their possession is valid.

(VI) The preliminary enquiry authority/Special Deputy Collector, Tribal Welfare, Rampachodavaram, Alluri Sitharamaraju District and the Appellate Authority disagreed with the contention of the Revision Petitioner and held that the possession of the Revision Petitioner is contrary to the provisions of AP Scheduled Area Land Transfer Regulations Act 1 of 70.

(VII) Now the point for consideration is whether the possession of the schedule land of Revision Petitioners is in violation of Land Transfer Regulations 1 of 59 as amended by 1 of 70 or not?

(VIII) The Revision Petitioners herein are making a claim that the land originally belonged to one non tribal namely Geddam Ramudu who said to have sold away the schedule land to their great grandfather. However in support of their claim, they failed to produce the relevant document during an enquiry held before the preliminary enquiry authority in LTRP No. 71/2008 or the Appellate Authority/Addl. Agent to Government in CMA No 38/2014.

(IX) The observations made in the impugned order passed by the Additional Agent to Government show that" the appellant filed the appeal stating that the appellant has been cultivating the Petition Scheduled

land before the LTR Regulation 1 of 59 as amended by 1 of 70 came in to force. But the appellant has not produced any recorded evidence to prove that he obtained the Schedule lands before the commencement of the Land Transfer Regulation, further he has also failed to adduce any recorded evidence when the land was transferred to him and failed to prove his title over the Petition Scheduled Land adducing recorded evidence".

(X) The Appellate Authority/Additional Agent to Government further held that the appellant failed to prove his right over the land in question how and when his ancestors acquired the property and how and when the property transferred to the appellant from his ancestors and the said transfer is valid under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70. The Appellate Authority finally ordered for restoration of the land to Government for onward assignment to land less poor tribals while disallowing the claim of the Appellant.

(XI) In this connection, it is necessary to refer the provisions of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 to appreciate the facts of the case. By virtue of the amended AP Scheduled Area Land Transfer Regulations 1 of 70 provisions, the transfer of immovable property situated in the Agency Tracts in favour of a non tribal either by a tribal or non tribal is made absolutely void.

(XII) Clause (b) of section 3(1) which was substituted by Regulation I of 1970 raised a presumption that the property situated in Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. In other words, if any non-tribal is in possession of the property situate in Agency Tracts, it is presumed that he or his predecessors acquired the same through a transfer made to him by a member of Schedule Tribe which is prohibited.

(XIII) The full bench of AP High Court in Vemana Somalamma and others Vs Deputy Collector, Tribal on 17 February, 1993 (AIR 1993 AP 312) held that the object of the Land Transfer Regulation seems to be that all the immovable properties in Agency Tracts, as far as possible, must be restored back to the tribals, which was held by tribals at one time.

(XIV) In the absence of material evidence in support of the claim of the Revision Petitioners the possession and enjoyment of lands held by them in the Scheduled Area shall be deemed that the lands in question came in to their possession through a transfer made either by a tribal or a non-tribal in violation of the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70.

(XV) In view of foregoing discussion, there is no valid ground to interfere with the impugned order in the Revision Petition. The impugned order passed by the Additional Agent to Government in CMA No 38/2014 is hereby upheld. In the result, Revision Petition is dismissed. As a sequel, interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

7. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 3 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram in C.M.A.No.38/2014 are hereby upheld and the Revision petition filed by Sri. Badireddy Venkatareddy, S/o. Late Kasi Viswanatham, Sri Badireddy Bulithammannadora, S/o. Late Kasi Viswanatham & Sri Badireddy Paparao, S/o.Late Kasi Viswanatham all are R/o. Gokavaram (V&M), East Godavari District (legal heir and son of deceased petitioner Badireddi Kasi Viswanadham) is Dismissed and Interim orders passed if any are hereby vacated in the matter.

8. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

9. This order shall be published in apegazette.cgg.gov.in.

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer, ITDA,
Rampachodavaram, Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Devipatnam (M), Alluri Sitharamaraju District.
The Tahsildar, Gokavaram (M), East Godavari District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri.Badireddy Venkatareddy, S/o. Late Kasi Viswanatham,
R/o. Gokavaram (V&M), East Godavari District.
Sri Badireddy Bulithammannadora, S/o. Late Kasi Viswanatham, R/o. Gokavaram (V&M), East Godavari District.
Sri Badireddy Paparao, S/o. Late Kasi Viswanatham
R/o. Gokavaram (V&M), East Godavari District.

Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),Vijayawada.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER